STAFFORD COUNTY
AGRICULTURAL AND PURCHASE OF DEVELOPMENT
RIGHTS COMMITTEE MINUTES
OCTOBER 27, 2014

The meeting of the Stafford County Agricultural and Purchase of Development Rights Committee for Monday, October 27, 2014, was called to order 7:00 p.m. by Chairman Jeff Adams in the County Administration Conference Room of the George L. Gordon, Jr. Government Center.

Members Present:	Jeff Adams, Gail Clark, John Howe, Marty McClevey, Benjamin Rudasill
Members Absent:	Craig DeBenard
Staff Present:	Kathy Baker, Amber Forestier, Sylvia Dyson
Guest Present:	Joan Salvati (DEQ), Daniel Moore (DEQ) Etta Lucas (Tri-County), Kyle Haynes (Tri-County)

1. Call to Order

The Chairman, Jeff Adams, called the meeting to order at 7:00 p.m.

2. Unfinished Business

- Chesapeake Bay Ordinance Amendments

Ms. Clark expressed her concerns regarding the 40% reduction in nonpoint source pollution from agricultural (ag) uses mentioned in the Ordinance to the DEQ representatives and pointed out that the same 40% were already referenced in the 1991 Ordinance. She stated that the she had also contacted Soil and Water regarding her concerns. She pointed out that Stafford County had lost lots of farm land to development since 1991 and was curious if the 40% had already been met and how it was being measured. She further stated that she was curious as to how the pollution was being measured and if there was even a way to determine where exactly the pollution was coming from.

Ms. Salvati explained that in the Chesapeake Bay Act regulations there was a 40% and a 75% reduction that was articulated. She explained that these numbers were for buffers in general, not only for ag. She mentioned that the bay act stated that it was assumed that a fully vegetated buffer would reduce 75% of the sediment and 40% of the nutrients. She explained that the buffers were ongoing tools to keep the runoff from Ag uses, as well as urban and commercial uses to a minimum. In her opinion the number should have never been put in the regulation. She further stated that the value of 40% just for agriculture was never put in the regulations. Ms. Salvati stated that when DEQ looks at Stafford's ordinance they will be looking for buffer

requirements and not whether any numbers were being achieved. She explained that that was not an enforceable requirement. Ms. Salvati further explained that the Bay Act had been intended as a holistic approach to address land uses of all kinds in an effort to reduce the loads to the Chesapeake Bay and to local waters, referred to as waters of the state. Ms. Salvati stated that a lot of progress had been made since the Bay Act and that DEQ had received a lot of BMPs on ag-lands, they did however not get information on where the BMPs were. She explained that anytime a farmer puts BMPs in place, especially if it was done through cost share, the load reductions were being capture in the Bay model. Ms. Salvati explained that even though progress had been made there was still a lot more room for improvement. She referenced dead zones in the bay and reduced oxygen levels which were affecting fishery. Ms. Salvati stated that the progress made is not only a result of the bay act, but also the localities working on buffer requirements, reducing impervious cover, erosion and sediment control, stormwater, etc. Ms. Salvati reiterated that ag practices were in fact being credited in the model. She explained that once she gets the information that x amount acres of nutrient management plans have been established in the county, she passes it on to the DEQ modeler and the acreage will be converted to a reduction. Regarding the values found in the current Ordinance Ms. Salvati stated that it is up to Stafford County to decide whether they want to keep the percentages in the Ordinance.

Ms. Clark suggested, since the drop in pollution could not be measured, taking the 40% out and rather adding i.e. number of acres with nutrient plans.

Ms. Salvati explained that Mr. Wilmer Stoneman (State Advocate for Agricultural Community) in 1991 suggested that farmers should do an assessment rather than a conservation plan to determine whether there were already BMPs on the ground and reward farmers for existing BMPs. Ms. Clark asked if such tool had ever been developed. Ms. Salvati replied that a checklist had been drafted with the help of Diane Baier, however it was never finalized and was only available in draft form. She further stated that Hanover-Caroline District had also provided a checklist that aggregated information on resource management plans, ag assessments, and different kinds of BMPs. She offered to send a copy. She stated that she felt Wilmer Stoneman's idea was a good one since conservation plans would not automatically require a conservation plan where one wasn't needed, and it would provide more information on existing ag BMPs. She further stated that Stafford County would be responsible for their own assessments. She explained that most localities were reaching out to their partners in the district trying to gather more information about active Ag land.

Mr. Howe asked if Ms. Salvati was making a distinction between assessment conservation plan and a nutrient management plan.

Ms. Salvati explained that a conservation plan by definition under the old Bay Act would include a management plan. She further explained that three items would have to be addressed in the ag BMPs which were nutrients, soil erosion, and pest management. She stated that DEQ was focusing on the first two.

Mr. Howe asked why pest management was not being looked at.

Ms. Salvati explained that DEQ was looking at it, but it was not their primary focus. To her knowledge farmers weren't any longer over applying pesticides since it was very costly. She stated that a lot of the process was accounting and that DEQ needed to know what was happening out there so data could be put into the model so the agricultural community could get the credit it deserved. She also stated that there was also progress with the homebuilder community with soil erosion, maintenance agreements, etc.

Ms. Forestier added that 100 foot buffers were also being maintained on most of the perennial streams. The committee expressed their concern regarding homeowners using fertilizers and pesticides which was unregulated.

Mr. Moore agreed, but stated that the Bay Act did not focus on that issue.

Mr. McClevey mentioned that he had been communicating with DEQ back in 2012 and was provided information on TMDLs and impaired streams. He stated that the numbers shown were a big concern. He inquired if DEQ was planning on setting a standard for Stafford County in the future and monitoring the stream cleanup.

Ms. Forestier stated that this was more of a stormwater management issue.

Ms. Salvati agreed. She further clarified that most of the impairments were due to bacteria and that an implementation plan would be developed by DEQ which will be specific to each stream's watershed, and it would give specific instructions on how to reduce the bacterial load for each stream. She stated that this would not play into the ag requirements. She offered to check into Stafford's impairments and what implementation plans were active at this time.

Mr. McClevey stated that the bulk of the watershed for Quantico Creek was in Prince William Forest Park. He pointed out that a lot of that was caused by the residential areas and animals, not only farmers.

Ms. Salvati agreed that the pollution was caused by the homeowner community as well as farmers. She added that there will be a lot more technical criteria that homeowners will have to comply with. She further stated that DEQ will not come up with a whole bunch of new BMPs. She stated that the regulations stated that all active ag lands would have to be assessed regarding what BMPs were already in place and if there weren't any, a plan would have to be put in place addressing the water quality issues.

Mr. Adams asked for a definition of active farm land.

Ms. Salvati stated that there was no actual definition, but that the regulations stated that active land was considered land upon which agricultural activities were being conducted, including

but not limited to crop production, pasture, and dairy and feeding operations, or lands otherwise defined as agricultural by the local government.

Mr. Adams inquired if that meant that the county would have to determine what was considered active farm land. Ms. Salvati affirmed. Ms. Forestier stated that according to Stafford County Code active farm land was considered lands used for planting, growing, and harvesting of crops of any kind in the open; pastures; horticulture; dairying; floriculture; or raising of poultry and/or livestock. Buildings and structures were not included in this definition.

Ms. Salvati stated that DEQ offered as a compliance standard to localities to come up with an implementation plan. She further stated that DEQ was getting ready to approve Stafford's program. She explained that there were different phases starting with reaching out to the district to find out what information was available on active BMPs. She explained that step one was to coordinate with the Commissioner of Revenue to obtain parcel information; building of information. In the second phase the County would have to do a little bit more work according to Ms. Salvati, and the third phase meant reaching out to the farmers. She stated that most localities DEQ had been working proceeded on a magisterial district basis dividing the County into sections over a period of 5-6 years.

Mr. Moore clarified that these were not new regulations, but have been in place since day one. He explained that DEQ has been giving the localities the time required to get everything up and running. He further explained that DEQ has been concentrating on phases 1 and 2. He admitted that initially the time table that had been set up in the early days of the act and the regulations was pretty ambitious, but has become rather flexible.

Ms. Salvati added that DEQ was okay with phasing and that the approach would be similar to the approach of a septic pump out. She further stated that DEQ will leave it up to the localities how they want to prioritize, as long as there was a plan in place and they were sticking to it. She stated that it took DEQ about 5 years to finish a compliance evaluation for Stafford County and were getting ready to approve it. She explained that there would be another review in five years where they will look at the progress.

Mr. Howe initiated a discussion on how to capture properties that don't use cost share, but still have BMPs in place. He suggested looking at properties with land use tax.

Ms. Clark suggested sending a checklist out to the farmers for them to start self-assessing.

Mr. McClevey was concerned that sending out something to properties in land use would not be effective since some landowners may not understand what BMPs were all about. He asked for a document defining BMPs.

Ms. Salvati stated that she could provide that.

Mr. Howe stated that DCR had a nice set of documents for virtually every BMP one could think of.

Ms. Salvati explained that DEQ was using practices had been approved by DCR and were somewhat consistent with what was reported to EPA.

Mr. Howe added that the persons approving BMPs could go out to properties to do assessments and report if BMPs are still in place regardless if it had been funded or not.

Ms. Forestier added that buffers could be used for assessments as well, since they were visible on aerials.

Ms. Clark was concerned that Soil and Water would not be able to do a full assessment of everything within 5 years.

Mr. Moore stated that DEQ understood that and that Stafford was not the only locality dealing with this issue.

Ms. Clark asked if Tri-County was able to pull up the information on which properties were already under plan.

Ms. Lucas stated that they only had a list of people that had been reported when they were doing conservation plans.

Ms. Clark stated that to do all the assessments Soil and Water would need more personnel.

Ms. Baker stated that there were ways to get grants to hire new personnel. She further stated that the committee had been talking about educational programs for farmers.

Mr. Adams inquired what type of information would be provided to DEQ.

Ms. Lucas stated that they would only provide parcel information and the practice that was on it.

Mr. Moore asked if there were still concerns regarding the benchmark numbers.

Ms. Clark stated that she was concerned about over using Soil and Water as she did not believe they had the manpower. She also had a concern regarding Soil and Water having to report non-compliant people. She further stated that she was concerned regarding 100-foot buffers on either side of streams as it would take up too much of the already small fields.

Mr. Moore explained that the 100-foot buffer had not changed in the life of the program.

Ms. Salvati explained that buffers could be reduced and had been down to 25 feet if all three major water quality issues had been addressed with practices.

Ms. Lucas stated that federal and state were now allowing 10-foot setbacks.

Ms. Salvati explained that there were two different requirements for different reasons. She stated that the Bay Act was supposed to protect the bay, but also the local streams. She explained that having a 10-foot setback adjacent to streams did absolutely nothing to protect the stream.

Mr. Adams disagreed. He stated that it would keep animals out of the stream and prevented bank erosion.

Ms. Salvati explained that she was talking about vegetation along the stream and her experience was that it did not protect the stream. She stated that there were different impacts. One was keeping animals out of the stream and the bacteria that they generated, the second impact was the runoff and 10 feet wasn't enough to get sediment and other pollutants out.

Ms. Forestier added that the 100-foot buffers were only required on perennial streams and that about 80 percent of the streams were intermittent streams.

Mr. Adams pointed out two issues that would have to be considered in contacting farmers and getting them to do BMPs. He explained that most farmers would not spend money on fencing out streams on a promise that he will be reimbursed. He further stated that there was no financial support for preventing problems, but only for rectifying.

Ms. Lucas stated that the cost share program was created to solve problems.

Ms. Clark stated that if a farmer had Ag land within the Chesapeake Bay watershed it should be considered a problem by definition.

Ms. Lucas negated.

Ms. Lucas addressed the concern regarding spot checks and explained that Tri-County has been doing spot checks in the past. She stated that if farmers refused to cooperate, Tri-County would inform the County that the farmer did not want to develop a plan at this point and it was then up to the County to contact the farmer.

Ms. Baker added that all the County can do at this point was being reactive and not proactive. She explained that violations would have to be brought to the County in order for the County to pursuit.

Mr. Rudasill asked what the total number of parcels in land use was. Ms. Baker stated that that

information was not available at this moment and would have to be updated. Ms. Lucas stated that about 2 years ago it was about 600.

Ms. Baker asked to go back to initial issue which was the Ordinance and come up with some recommendations, and also to decide whether the committee wanted to take anything through to the legislative committee. Ms. Clark suggested removing the 40% from the Ordinance.

Ms. Salvati and Mr. Moore were fine with that.

Mr. McClevey inquired about BMPs used in residential and suburban for nutrient control.

Ms. Salvati explained that there where many different ones before, during, and after construction, such as sediment basins, wet ponds, dry ponds, bio retention facilities, etc.

At this point all the guests left and Ms. Baker addressed the committee again regarding the Ordinance and how the committee wanted her to proceed as far as taking it to the legislative committee.

Mr. Howe suggested removing the 40% from "Purpose and Intent" and changing it to state "Achieve a reduction in nonpoint source pollution from agricultural uses." Mr. McClevey suggested adding "through the use of BMPs". Ms. Clark agreed. Ms. Baker suggested making that recommendation to the Board.

Ms. Baker reiterated that the State found the County non-compliant. According to State in order to get in compliance Stafford County would have to go through different steps. She explained that step one was doing the assessment to find out how much was out there and then after 5 years start implementing more BMPs. She ensured that DEQ understood the limitations and that Stafford County would be fine as far as achieving the goals. Mr. Adams stated that he felt that farmers could not be mandated to establish BMPs at their own expense and would have to be funded somehow.

Ms. Baker stated that Stafford County was taking the role in this process and that 90% of all counties hadn't even started the process yet. She explained that Stafford County was the first county to receive the letter of non-compliance. Mr. Howe felt that that created a sense of urgency for Stafford to get started before other counties start calling on Tri-County's limited resources. Ms. Clark still felt that a self-assessment sheet should be sent out to farmers in conjunction with the land use forms to help start filling in the database.

Ms. Baker recommended starting out with conservation plans through Tri-County and then go to the next step, which could be reaching out to landowners or NRCS to see how they can support Stafford County. She stated that there were different ways to go about it, but right now they would have to focus on something achievable. Mr. Howe stated that specific properties would have to be identified. Ms. Baker stated that that was the plan. She reminded that DEQ was getting ready to approve Stafford's proposal from March 2013.

3. Approval of Minutes – September 22, 2014

Mr. Howe made a motion to approve the September 22, 2014 minutes as written. Mr. Rudasill seconded the motion. The motion passed 5-0.

4. Staff Update

- **PDR Program Update**

Ms. Baker stated that the Board of Supervisors authorized the PDR committee to go forward with the VDACS grant money for matching funds. She stated that the County had $730,000 available, but no match yet. She explained that she will be applying for state match which would be about $15,000 max. She further explained that only $137,000 was required to match for the Adams property which would leave a little bit of money left over. Ms. Baker stated that the negotiations between the County's attorneys and the Adams's attorneys were still ongoing and once the draft deed was complete it would be submitted to VDACS for review. Ms. Baker stated that she was hoping to close the end of the year.
Ms. Baker informed the committee that the Virginia Land Conservation Funds now had 1.5 million available in matching funds, but would be split between agriculture, historic resources, forest, and parks and rec. The application would be due in November. She stated staff would take a look at that. Ms. Baker also stated that there was still also the federal program which would however require more of the PDR money since it required appraisals on the properties as well as a purchase agreement. She stated that a decision would have to be made on how to use the funds before the next fiscal year.
Mr. McClevey inquired about the Quantico program. Ms. Baker explained that Steve Henley had been assigned to the program. She stated that she had been talking with Quantico and that their next application round was in June. She explained that the program required for a property to already have been determined before even applying. The County would have to deal with the application and all the background work. She explained that Quantico would simply funnel the request to the higher ups for funds. She further stated Northern Virginia Conservation Trust had offered assistance with the program. Ms. Baker explained that only the Tang property and the Harris property were the only ones eligible for this program.

5. Next Meeting

January 26, 2015 Regular Meeting

6. Adjournment

Ms. Clark made a motion to adjourn which was seconded by Mr. Rudasill. The motion passed 5-0.

The meeting adjourned at 9:00 p.m.